

U.S. Department of the Interior  
Bureau of Land Management

# Module 2 – Lesson 2

## Additional Enforcement Actions



# Picture This:

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Imagine you have just arrived at a location to check to see if the corrective actions for an INC you issued have been completed....

They have not.....

What do you do now?





# LESSON OBJECTIVE

By the end of this lesson, each student should be able to...

**Given a scenario involving non-compliance of an initial enforcement action or specific regulation, identify what additional action(s) should be taken by the Environmental/Surface Inspector to gain compliance based on applicable enforcement regulation and BLM guidance.**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## LESSON ROUTE

**We will cover general information and the process for:**

Monetary Assessments

Civil Penalties

Shutdown Orders

Immediate Assessments

BLM Completes Work at Expense/Risk of Operator

Forfeiture Under the Bond

Lease Cancellation



## Module 2 Lesson 2 “Additional Enforcement Actions”

### Additional Enforcement Action Tools

**All field offices should be aware that they may have more than one choice of enforcement tools that can be used, or in some cases multiple tools could be used.**



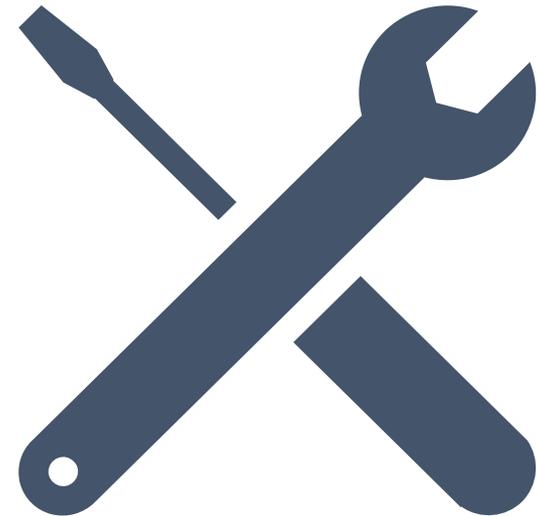
**Each field office should take the time to identify the best tool(s) to gain compliance most effectively and should not assume only one tool can be used for enforcement.**



## Module 2 Lesson 2 “Additional Enforcement Actions”

Why are additional enforcement actions important to the inspector and BLM?

**If an operator fails or refuses to comply with approved permits or COAs, lease stipulations, regulations, or Written Orders/INCs, additional enforcement actions can be tools to help gain operator compliance.**





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools





## Module 2 Lesson 2 “Additional Enforcement Actions”

### Monetary Assessments [43 CFR 3163.1(a)(1) & (2)]



If an operator fails or refuses to comply with the regulations in 43 CFR 3160, lease, permit, or any Written Order/INC, the authorized officer may subject the operator or person to:

#### Major Violations

- \$1,000 per violation, per inspection

#### Minor Violations

- \$250 per violation, per inspection

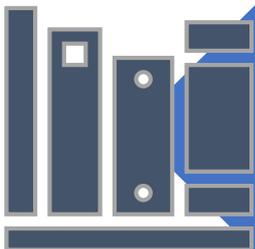


# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



Regulation allows for the Authorized Officer to subject the operator or person to a monetary assessment with the first INC.



In BLM policy, it is common for the Authorized Officer to subject the operator or person to a monetary assessment with the second INC.



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments [43 CFR 3163.1(c)]



### Reduction of Assessments

- On a case-by-case basis, the State Director may compromise or reduce assessments under this section. In compromising or reducing the amount of the assessment, the State Director will state in the record the reasons for such determination.



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Issuing Monetary Assessments



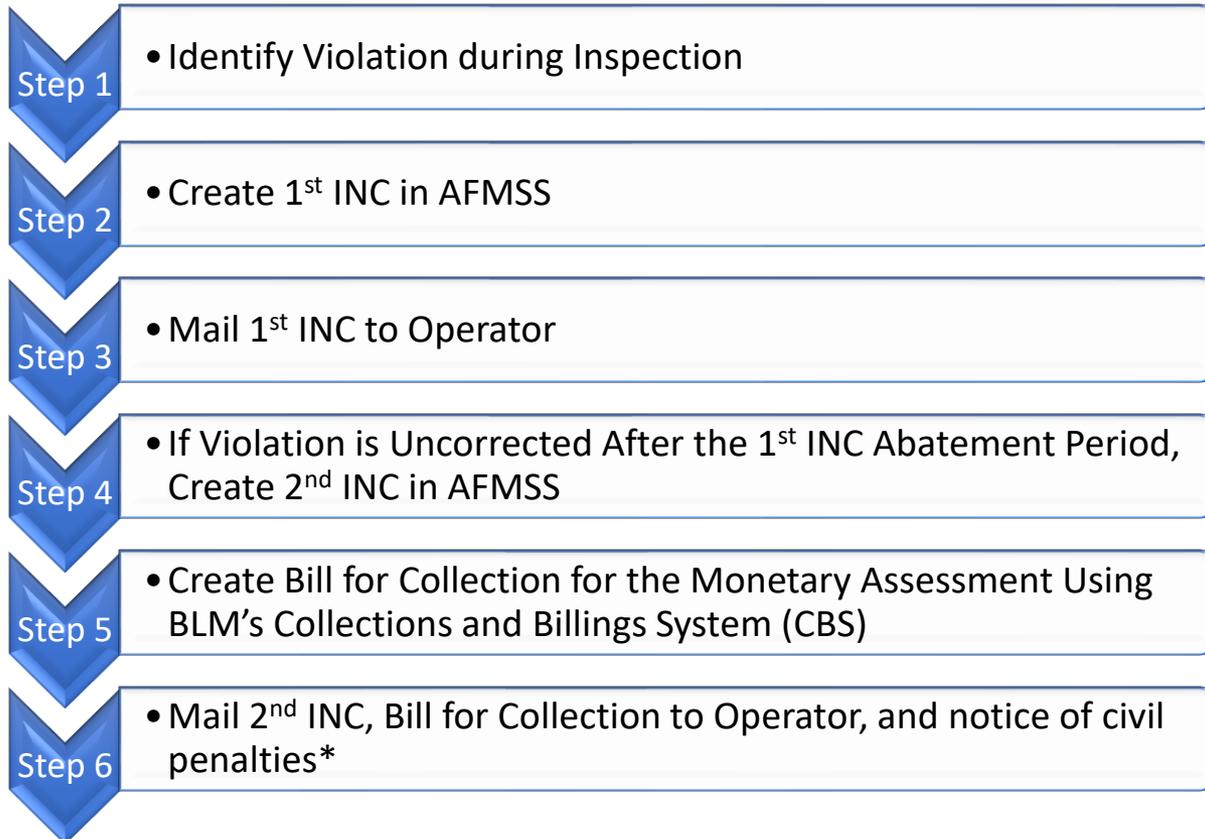


# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



### Common Steps to Issuing Monetary Assessments





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



What are reasonable abatement periods for the 2<sup>nd</sup> INC?

### Major Violations

- Based on criteria for what is a reasonable period to correct a major violation
- Typically, a short timeframe

### Minor Violations

- Not less than 20 days
- Some violations may require longer periods to comply in order to meet the criteria for reasonableness



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments

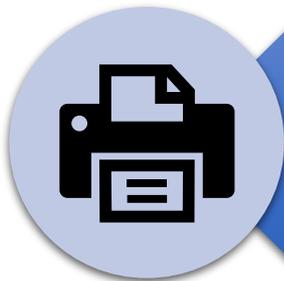


What warning statement should be included with the 2<sup>nd</sup> INC?



The second INC must inform the operator that civil penalties may be initiated if the violation is not corrected in a timely manner.

Who should get a copy of the 2<sup>nd</sup> INC other than the operator?



A copy of this notice must be sent to the record title owners (lessees) and/or operating rights owners if different from the operator.

Also send a courtesy copy to BLM State Office.



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



### Who can help the inspector create the Bill for Collection for the Monetary Assessment in CBS?

- **Administrative Assistant or employee with CBS account**

### How long does the operator have to pay the Bill for Collection?

- **Typically, 30 Days**

### What information needs to be on the Bill for Collection?

- **Lease Number**
- **INC Number**
- **Due Date (30 days from receipt)**
- **Statement that failure to pay will result in additional enforcement actions, including civil penalties, lease shut-in, and/or attachment of the bond**
- **Statement that failure to pay and subsequent attachment of bond may put the lease in jeopardy of cancelation**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



### What is sent to the operator if the Bill is not paid within 30 days?

- A Demand Letter (from CBS) with a 15-day extension, followed by a likely Second Demand Letter (from CBS)

### Who drafts the Demand Letter?

- Administrative Assistant generates Demand Letter from CBS

### How many Demand Letters are sent to the operator?

#### 2 Demand Letters

- If lease operations have not been shut down
- If lease has not been terminated

#### 1 Demand Letter

- If lease operations have been shut down
- If lease has been terminated since all wells were plugged



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



**What happens to the Bill in CBS, if the operator does not respond to demand letters?**

- **After 90-120 days, the Bill is referred to Department of Treasury**
- **Treasury will need proof Bill and Demand Letters were sent to the operator**
- **See guidance at OC-2016-019**

**Who is responsible for ensuring demand letters are issued timely to the operator and bills in CBS are being referred to Treasury?**

- **Surface Inspector**





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



### Who refers the Bill to the Treasury?

- **National Operations Center – Accounts Receivable Section**

### What proof/information does the NOC - Accounts Receivable Section need when the Bill is referred to the Treasury?

- **Documentation (evidence) that the company was notified of the Bill and Demand Letter(s)**
- **Provide the following to the NOC when the Bill is referred\*:**
  - Signed INC Form with attached Bill (with certified mail receipt)
  - Signed Demand Letter(s) for Bill (with certified mail receipt)
  - Other signed documents or correspondence related to Bill



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



Where can an inspector find information and procedures regarding collection of assessments and issuance of demand letters?

- **H-3160-5 “Inspection and Enforcement Documentation and Strategy Development Handbook”**  
- Section VI.N





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



**During the Monetary Assessment process, what material should be filed in the official well file?**

- **Follow-up ES Inspection Documentation**
  - Verifying that 1<sup>st</sup> INC was uncorrected
- **Copy of 2<sup>nd</sup> INC**
  - With certified mail receipt and returned green card
- **Copy of Bill for Collection for the Assessment**
- **Record of Telephone Conversation**
  - INC's for major violations require verbal notification
- **Copy of Demand Letter(s)**
  - Generated from CBS if operator fails to pay assessment
- **Copy of Letters to Record Title Owner(s)**
  - Courtesy Letter for Bill for Collection
  - Courtesy Letter for Demand Letter(s)



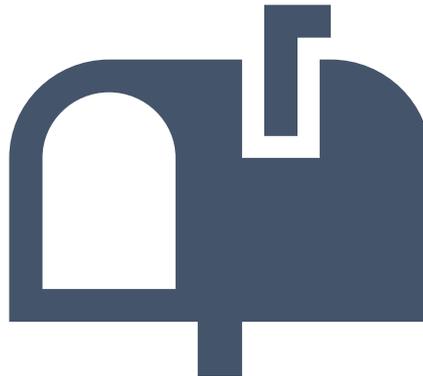
# Module 2 Lesson 2 “Additional Enforcement Actions”

## Monetary Assessments



What other letter is typically sent to the operator with the 2<sup>nd</sup> INC with Monetary Assessments?

Notice of Proposed Civil Penalties Letter





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties [43 CFR 3163.2(a)(1)]



**43 CFR 3163.2(a)(1):** Whenever any person fails or refuses to comply with any applicable requirements of the:

- (1) Federal Oil and Gas Royalty Management Act,
- (2) any mineral leasing law,
- (3) any regulation thereunder, or
- (4) the terms of any lease or permit issued thereunder,

the authorized officer will notify the person in writing of the violation, unless the violation was discovered and reported to the authorized officer by the liable person, or the notice was previously issued under §3163.1.



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties [43 CFR 3163.2(b)(1)]



If the violation specified in 43 CFR 3163.2(a)(1) is not corrected within

**20 DAYS**

of such notice or report, the operator or person will be liable for a civil penalty:

Up to **\$1,115** per violation for each day such violation continues, dating from the date of such notice or report.

*Note: Amount will change year to year.*



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties [43 CFR 3163.2(b)(2)]



If the violation specified in 43 CFR 3163.2(a)(1) is not corrected within

**40 DAYS**

of such notice or report, the operator or person will be liable for a civil penalty:

Up to **\$11,160** per violation for each day such violation continues, dating from the date of such notice or report.

*Note: Amount will change year to year.*



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties [43 CFR 3163.2(e)]



Any person is liable for a civil penalty of up to **\$22,320** per violation for each day such violation continues, if the operator/person:

1

Fails or refuses to permit lawful entry or inspection authorized by 43 CFR 3162.1(b)

2

Knowingly or willfully fails to notify the authorized officer after any well begins production on which royalty is due or resumes production in the case of a well which has been off production for more than 90 days.

*Note: Amount will change year to year.*



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties [43 CFR 3163.2(f)]



Any person is liable for a civil penalty of up to **\$55,800** per violation for each day such violation continues, if the operator/person:



Knowingly or willfully prepares, maintains or submits false, inaccurate or misleading reports, notices, affidavits, records, data or other written information required by this part



Knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any Federal or Indian lease site without having valid legal authority to do so



Purchases, accepts, sells, transports or conveys to another any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted from a Federal or Indian lease site

*Note: Amount will change year to year.*



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties [43 CFR 3163.2(g)]



### Reduction of Civil Penalties

- On a case-by-case basis, the State Director may compromise or reduce civil penalties under this section. In compromising or reducing the amount of a civil penalty, the State Director will state on the record the reasons for such determination



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Issuing Civil Penalties





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### Common Steps to Issuing Civil Penalties

- Step 1**
  - When Mailing 2<sup>nd</sup> INC and Bill for Collection for the Monetary Assessment to the Operator, Mail Notice of Proposed Civil Penalties Letter to Operator
- Step 2**
  - If the Violation is Uncorrected After the 2<sup>nd</sup> INC Abatement Period, Create 3<sup>rd</sup> INC in AFMSS (Do Not Mail 3<sup>rd</sup> INC)
- Step 3**
  - Mail 2<sup>nd</sup> Notice of Proposed Civil Penalties to Operator
- Step 4**
  - Mail 3<sup>rd</sup> Notice of Proposed Civil Penalties to Operator
- Step 5**
  - Create Bill for Collections for the Civil Penalties Using BLM’s Collections and Billings System (CBS)
- Step 6**
  - Mail Bill for Collection for Civil Penalties with Cover Letter to Operator



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



**Prior to initiating civil penalties, who must the inspector coordinate with?**

- **State Office Program Lead**
  - **State Office NRS**
  - **State Office I&E Coordinator**

**When is the appropriate time to notify the operator of proposed civil penalties?**

- **At least 20 days after the effective date of the 1<sup>st</sup> INC.**
  - **Effective Date: The date the operator received the notice or 7 business days after the notice was mailed.**
- **Typically, the first Notice of Proposed Civil Penalties is sent in conjunction with the 2<sup>nd</sup> INC.**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### How is the operator informed of proposed civil penalties?

- **Notice of Proposed Civil Penalty (NPCP) letter.**
  - Each NPCP letter is signed by the Authorized Officer and notifies the operator of proposed civil penalties if the corrective actions are not completed within the specific time periods.

- **At least 3 NPCP letters should be mailed during civil penalty process:**

1<sup>st</sup> NPCP Letter

• Operator should receive with 2<sup>nd</sup> INC

2<sup>nd</sup> NPCP Letter

• Operator should receive prior to 40-day penalty phase

3<sup>rd</sup> NPCP Letter

• Operator should receive prior to 60-day penalty phase



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### What information should be included in the 1<sup>st</sup> NPCP Letter?

- Previous enforcement actions taken by BLM for the violation
- Notice of pending civil penalties
- Date when civil penalties may begin
  - Typically, the day following the 2<sup>nd</sup> INC Abatement Date
- First (lower) daily rate for civil penalties
- Date when civil penalties increase
  - Typically, 20 days after the 2<sup>nd</sup> INC Abatement Date
- Second (higher) daily rate for civil penalties
- Warning of additional enforcement actions if violation continues after 60 days (*i.e., 40 days after 2<sup>nd</sup> INC Abatement Date*)
- Appeal language
- Contact information
- Authorized Officer signature



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### What information should be included in the 2<sup>nd</sup> NPCP Letter?

- Previous enforcement actions taken by BLM for the violation
- Reminder that civil penalties are accruing at lower daily rate
- Notice of pending increase civil penalties
- Date when civil penalties will increase to a higher daily rate
  - Typically, 20 days after the 2<sup>nd</sup> INC Abatement Date
- Second (higher) daily rate for civil penalties
- Warning of additional enforcement actions if violation continues after 60 days (*i.e., 40 days after 2<sup>nd</sup> INC Abatement Date*)
- Appeal language
- Contact information
- Authorized Officer signature



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### What information should be included in the 3<sup>rd</sup> NPCP Letter?

- Previous enforcement actions taken by BLM for the violation
- Reminder that civil penalties are accruing at higher daily rate
- Notice of pending Bill for Collection for civil penalties
  - Reference that Bill will be sent separately
- Date when Bill for Collection for civil penalties will be issued
  - Typically, 40 days after the 2<sup>nd</sup> INC Abatement Date
- Civil Penalty calculations for 60 days at higher daily rate
- Warning of additional enforcement actions if violation continues after 60 days (*i.e., 40 days after 2<sup>nd</sup> INC Abatement Date*)
- Appeal language
- Contact information
- Authorized Officer signature



# Module 2 Lesson 2 “Additional Enforcement Actions”

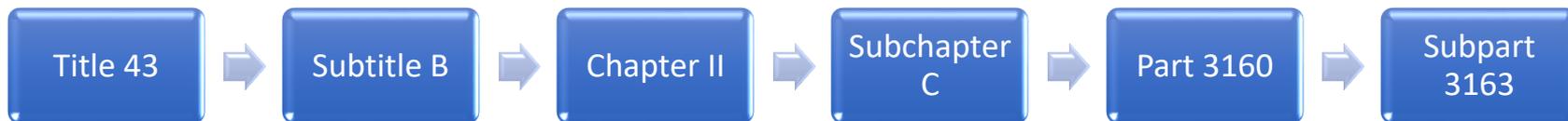
## Civil Penalties



Where can the inspector find the latest civil penalty rates?

➤ **eCFR.gov**

- Contains the latest civil penalty rates
- Also contains the latest Code of Federal Regulations





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



**Who should get a copy of each NPCP letter other than the operator?**

- A copy of each NPCP must be sent to the record title owners (lessees) and/or operating rights owners if different from the operator.
- A copy should also be sent to the State Office Program Lead

**What other method of notification is needed to inform the operator of proposed civil penalties?**

- Inspector must make a good faith effort to notify the operator by telephone of potential civil penalties.
  - File telephone conversation records in official well file





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### Why is the 3<sup>rd</sup> INC (Civil Penalty INC) created in AFMSS?

- Tracking purposes
  - Do not mail the 3<sup>rd</sup> INC Form to issue civil penalties

### When does the civil penalty process typically end?

- 60 days from either:

Effective date of 2<sup>nd</sup> INC

- For 20-Day Abatement Periods

The date that is 20 days before the Abatement Date of the 2<sup>nd</sup> INC

- For Abatement Periods Longer Than 20 Days



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



When do civil penalties start to accrue?

**20 days after the effective date of 2<sup>nd</sup> INC**

- **For 2<sup>nd</sup> INC Abatement Periods less than 20 days**

**After Abatement Date of 2<sup>nd</sup> INC**

- **For 2<sup>nd</sup> INC Abatement Periods that are 20 days or longer**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### How are civil penalties calculated?

- Civil penalties are calculated based on calendar days
- Civil penalties are calculated back from either:

Effective date of 2<sup>nd</sup> INC (Operator receives 2<sup>nd</sup> INC)

- For 2<sup>nd</sup> INC Abatement Periods lasting 20 days

The date that is 20 days before the Abatement Date of the 2<sup>nd</sup> INC

- For 2<sup>nd</sup> INC Abatement Periods lasting longer than 20 days



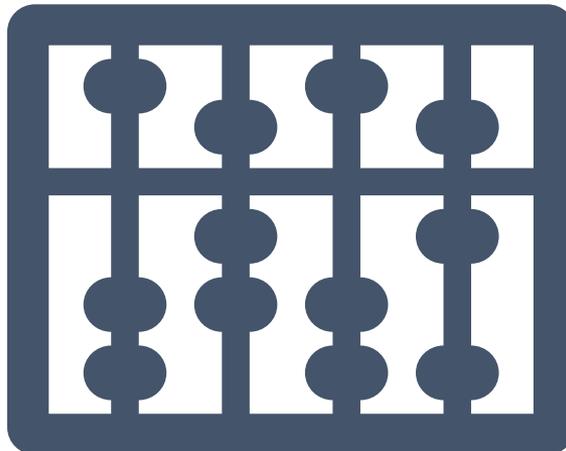
# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### What can be deducted from the civil penalties?

- **Any amount imposed and paid as assessments**
  - **43 CFR 3163.2(b)(1) & (2)**



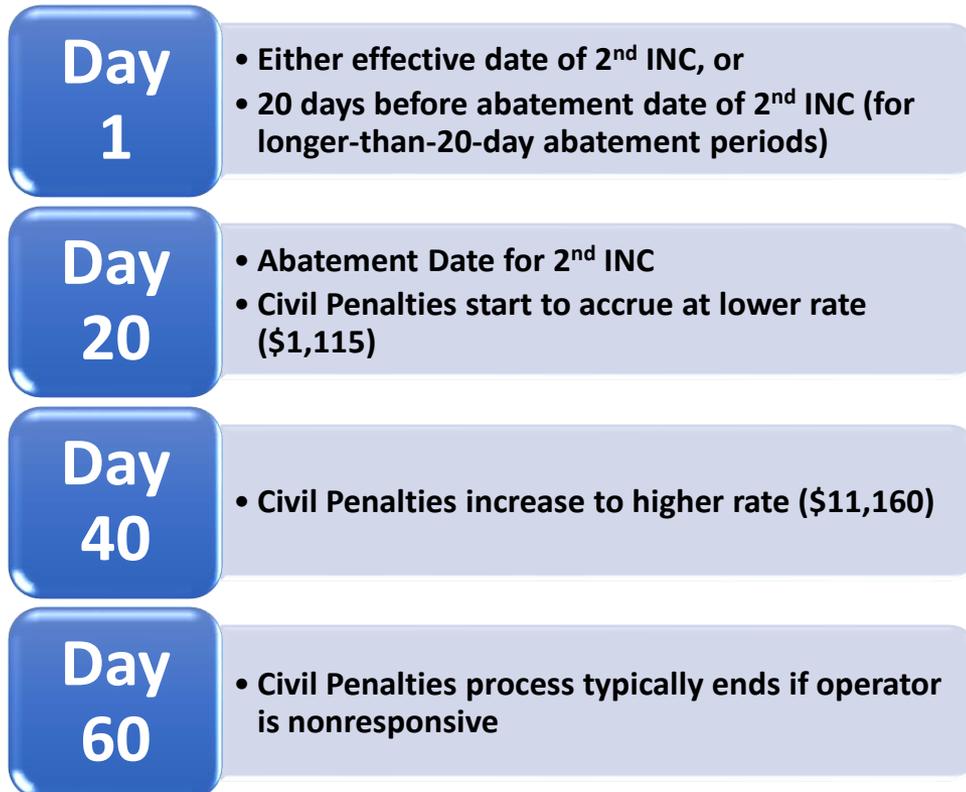


# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### How are civil penalties calculated?



If violation is corrected between Day 20 and Day 40, calculate civil penalties from Day 1 to the correction date at **\$1,115** per day, per violation. Then issue the civil penalty (using amount calculated) through a letter.

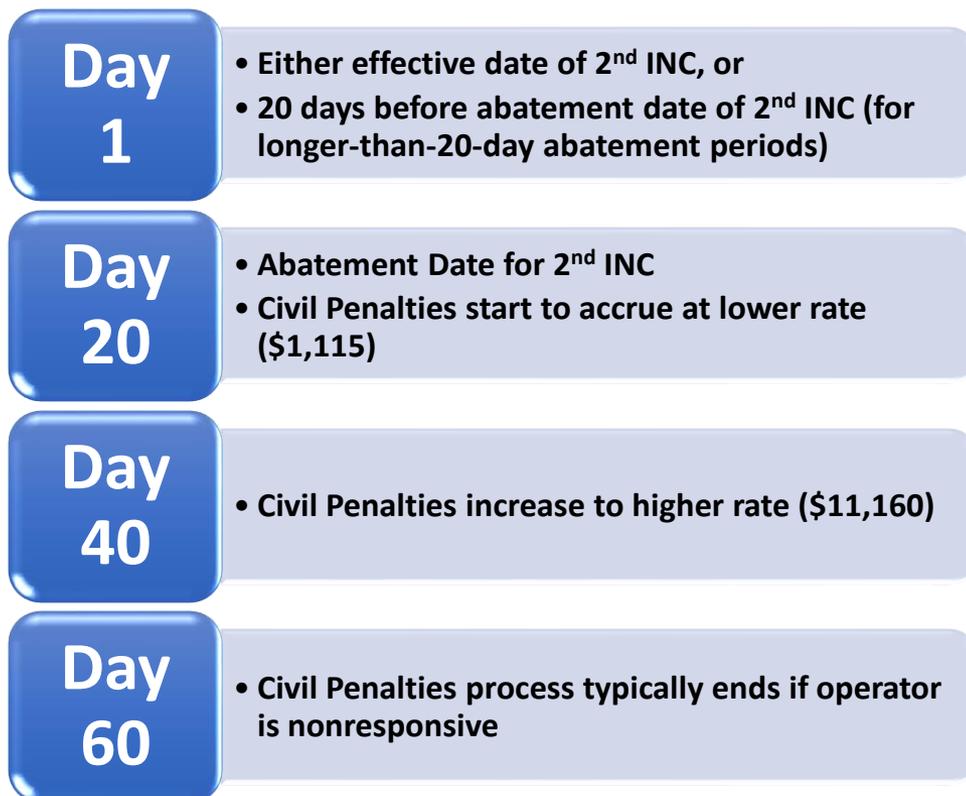


# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### How are civil penalties calculated?



If violation is corrected between Day 40 and Day 60, calculate civil penalties from Day 1 to the correction date at **\$11,160** per day, per violation. Then issue the civil penalty (using amount calculated) through a letter.



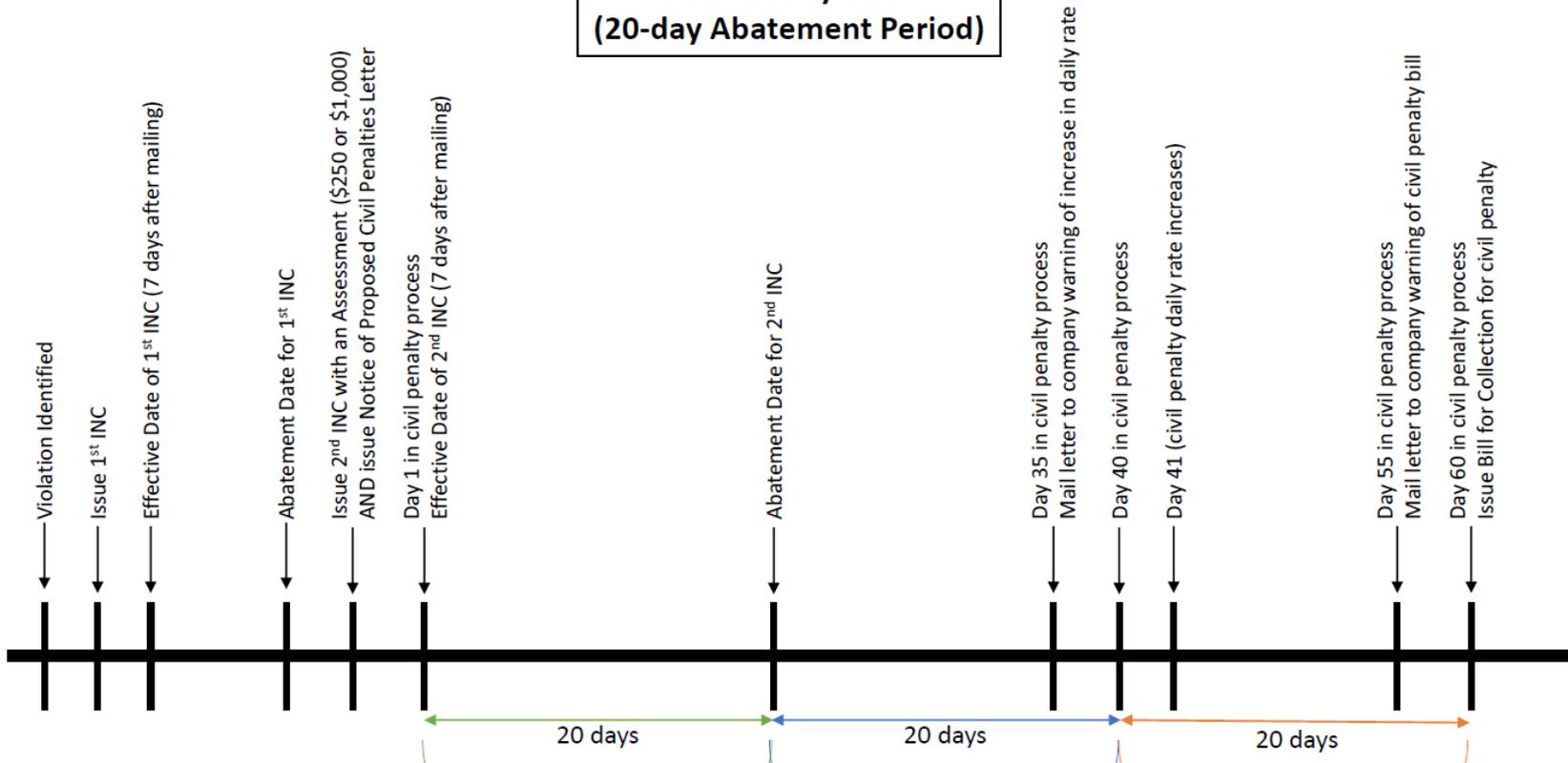
## Civil Penalty Phase Details with 20-Day Abatement Period:

Example Date	Day in Calculation	Action or Description	Alternative
February 15	-	Identify Violation	
February 19	-	Mail 1 <sup>st</sup> INC with 20-day Abatement Period	
March 1	-	Effective Date of 1 <sup>st</sup> INC	
March 20	-	Abatement Date of 1 <sup>st</sup> INC	If corrected before now, then no 2 <sup>nd</sup> INC
March 21	-	- Mail 2 <sup>nd</sup> INC with 20-day Abatement Period and Bill for Collection for the Monetary Assessment - Mail 1 <sup>st</sup> NPCP Letter	
March 28	1	Effective Date of 2 <sup>nd</sup> INC	
April 17	20	- Abatement Date of 2 <sup>nd</sup> INC - Civil Penalties Start Accruing Tomorrow at Lower Daily Rate - Create 3 <sup>rd</sup> INC in AFMSS (DO NOT Send to Operator)	If corrected before now, then no Civil Penalties, but operator must pay assessment.
May 2	35	Mail 2 <sup>nd</sup> NPCP Letter Warning of Pending Increase in Civil Penalties	
May 7	40	Civil Penalties Increase Tomorrow to Higher Daily Rate	If corrected after Day 20 but before now, then issue Civil Penalties by calculating from Day 1 to the correction date at \$1,115 per day.
May 22	55	Mail 3 <sup>rd</sup> NPCP Letter Warning of Pending Lease Cancellation Proceedings (Or Other Measure)	
May 27	60	- Create Bill for Collection for Civil Penalties - Mail the Bill for Collection to Operator	If corrected after Day 40 but before now, then issue Civil Penalties by calculating from Day 1 to the correction date at \$11,160 per day.



# Civil Penalty Phase Timeline with 20-Day Abatement Period:

**Civil Penalty Chart  
(20-day Abatement Period)**



**Note:**

- Send copy of all NPCP letters to lessee(s).
- Deduct assessment amount from civil penalty if assessment was paid by operator.

If violation is corrected during this period, do not issue civil penalty.

If violation is corrected during this period, issue civil penalty bill using lower rate (43 CFR 3163.2(b)(1)).

If violation is corrected during this period, issue civil penalty bill using higher rate (43 CFR 3163.2(b)(2)).



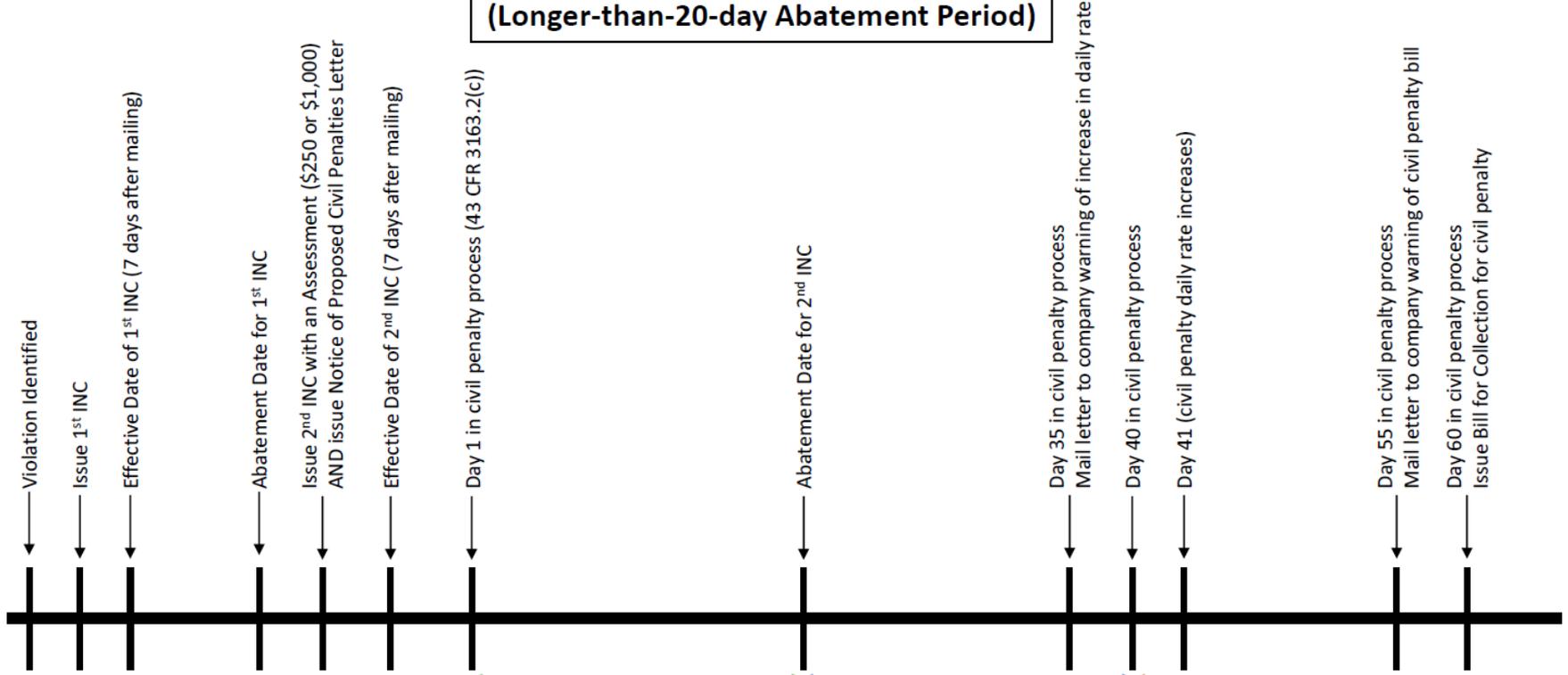
## Civil Penalty Phase Details with Longer-Than-20-Day Abatement Period:

Example Date	Day in Calculation	Action or Description	Alternative
February 15	-	Identify Violation	
February 19	-	Mail 1 <sup>st</sup> INC with 30-day Abatement Period	
March 1	-	Effective Date of 1 <sup>st</sup> INC	
March 30	-	Abatement Date of 1 <sup>st</sup> INC	If corrected before now, then no 2 <sup>nd</sup> INC
March 31	-	- Mail 2 <sup>nd</sup> INC with 30-day Abatement Period and Bill for Collection for the Monetary Assessment - Mail 1 <sup>st</sup> NPCP Letter	
April 6	-	Effective Date of 2 <sup>nd</sup> INC	
April 16	1	20 Days Prior to Abatement Date (43 CFR 3163.2(c))	
May 6	20	- Abatement Date of 2 <sup>nd</sup> INC - Civil Penalties Start Accruing Tomorrow at Lower Daily Rate - Create 3 <sup>rd</sup> INC in AFMSS (DO NOT Send to Operator)	If corrected before now, then no Civil Penalties, but operator must pay assessment.
May 21	35	Mail 2 <sup>nd</sup> NPCP Letter Warning of Pending Increase in Civil Penalties	
May 26	40	Civil Penalties Increase Tomorrow to Higher Daily Rate	If corrected after Day 20 but before now, then issue Civil Penalties by calculating from Day 1 to the correction date at \$1,115 per day.
June 10	55	Mail 3 <sup>rd</sup> NPCP Letter Warning of Pending Lease Cancellation Proceedings (Or Other Measure)	
June 15	60	- Create Bill for Collection for Civil Penalties - Mail the Bill for Collection to Operator	If corrected after Day 40 but before now, then issue Civil Penalties by calculating from Day 1 to the correction date at \$11,160 per day.



# Civil Penalty Phase Timeline with Longer-Than-20-Day Abatement Period:

**Civil Penalty Chart  
(Longer-than-20-day Abatement Period)**



**Note:**

- Send copy of all NPCP letters to lessee(s).
- Deduct assessment amount from civil penalty if assessment was paid by operator.
- The abatement period for 2<sup>nd</sup> INC can be longer than 20 days if necessary.

20 days

If violation is corrected during this period, do not issue civil penalty.

20 days

If violation is corrected during this period, issue civil penalty bill using lower rate (43 CFR 3163.2(b)(1)).

20 days

If violation is corrected during this period, issue civil penalty bill using higher rate (43 CFR 3163.2(b)(2)).



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



**During the Civil Penalty process, what material should be filed in the official well file?**

- **Documentation for Follow-up ES Inspections**
  - Verifying that violation was uncorrected during the process
- **Copy of each NPCP Letter**
  - With certified mail receipt and returned green card
- **Copy of Bill for Collection for the Civil Penalty**
- **Record of Telephone Conversation**
  - Each phase in process requires verbal notification
- **Copy of Demand Letter(s)**
  - Generated from CBS if operator fails to pay civil penalties
- **Copy of Letters to Record Title Owner(s)**
  - Courtesy Letter for NPCP letters
  - Courtesy Letter for Bill for Collection
  - Courtesy Letter for Demand Letter(s)



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### What happens to the civil penalty Bill if it is not paid?

- **Similar to unpaid assessments, Bill is referred to Treasury by the NOC – Accounts Receivable Section**

### What proof/information does the NOC - Accounts Receivable Section need when the Bill is referred to the Treasury?

- **Documentation (evidence) that the company was notified of the civil penalty Bill and Demand Letter(s)**
- **Provide the following to the NOC when the Bill is referred\*:**
  - Signed INC Form with attached Bill (with certified mail receipt)
  - Signed Demand Letter(s) for Bill (with certified mail receipt)
  - Signed NPCP letters (with certified mail receipt)
  - Other signed documents or correspondence related to Bill



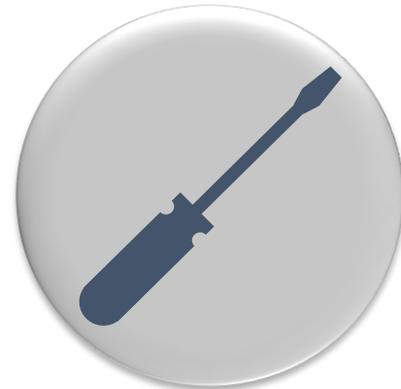
# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



What are additional enforcement action tools that can be pursued after civil penalties?

- **Proceed with Shutdown Orders**
- **Proceed with Lease Cancellation**
- **Proceed with Forfeiture Under the Bond**
- **Pursue Record Title Owner(s) with enforcement actions**
  - *If different from operator*





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



**Under what circumstance should an inspector pursue the Record Title Owners (lessees) for compliance?**

- **Non-responsive Operators**

**When should an inspector pursue the Record Title Owners for compliance?**

- **Typically, after the Civil Penalty Bill is referred to Treasury for nonpayment**
- **After the Field Office recommends to the State Office to attach the operator’s bond and the operator be placed on the list of entities in noncompliance with Section 17(g) of MLA (IM 2021-039) for leasehold reclamation requirements**

**Where can the inspector find the Record Title Owners for a lease?**

- **Lease Serial Page in LR2000**

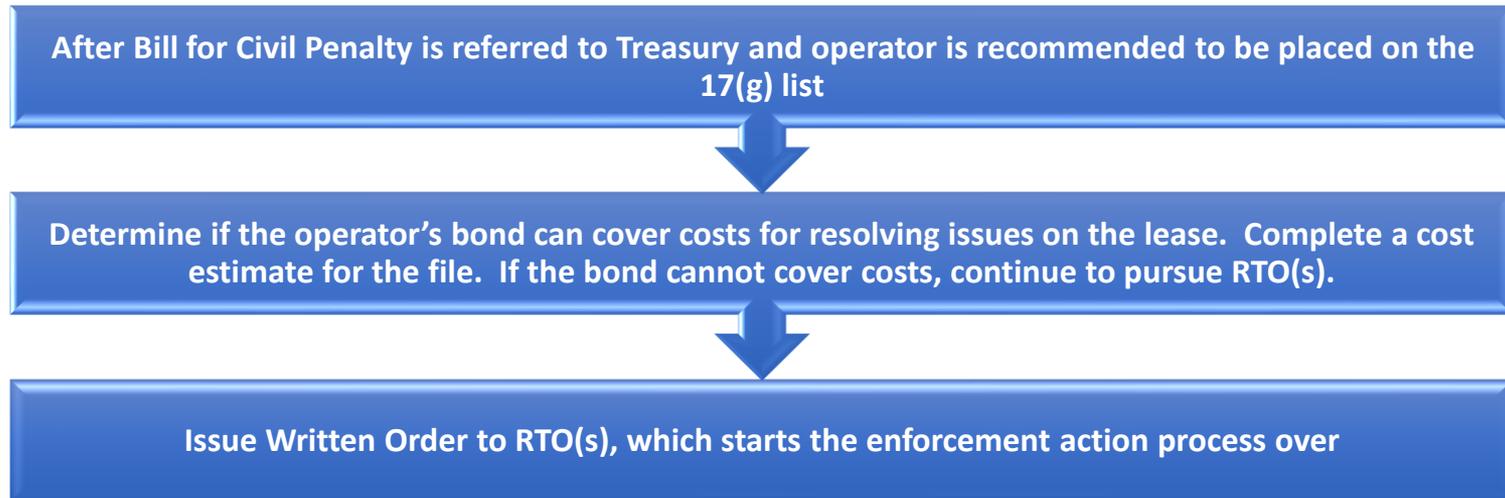


# Module 2 Lesson 2 “Additional Enforcement Actions”

## Civil Penalties



### How does the inspector pursue the Record Title Owners (RTO)?



*\*Coordinate with office management and state office program lead prior to pursuing the RTO(s).*



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools

- Monetary Assessments
- Civil Penalties
- Shutdown Orders
- Immediate Assessments
- BLM Completes Work at Expense/Risk of Operator
- Forfeiture Under the Bond
- Lease Cancellation



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders [43 CFR 3163.1(a)(3)]



**IMMEDIATE  
shutdown actions  
may be taken for  
the following:**

**When operations are initiated and  
conducted without prior approval**

**When continued operations could result in  
immediate, substantial, and adverse impacts on  
public health and safety, the environment,  
production accountability, and royalty income**

*\*Note: Shut-in actions for other situations may be taken only after due notice, in writing, has been given.*



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders



**Under what other circumstances could an inspector pursue shutdown of operations?**

- **Continued noncompliance after 2<sup>nd</sup> INC for major violation**
- **If minor violation could escalate to major violation**
- **Continued noncompliance after civil penalty process**
- **Continued noncompliance after failure to pay Bill for Collections**
- **Non-responsive operator**

**Shutdown actions for these circumstances maybe taken only after:**

- **Due notice has been given in writing**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders



**Caution must be used when considering the shutdown of operations to ensure:**

**Shutdown is appropriate given the operational conditions**

**Shutdown would not cause undue harm to the operations or the environmental resources**

**Communication with your petroleum engineer, PET, geologist, and management is critical to determine if shutdown action should be taken.**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Issuing Shutdown Orders





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders



### Common Steps to Issuing Shutdown Orders after Noncompliance with Major Violations

Step 1

- Identify MAJOR Violation during Inspection

Step 2

- Create 1<sup>st</sup> INC in AFMSS

Step 3

- Mail 1<sup>st</sup> INC to Operator

Step 4

- If Uncorrected After 1<sup>st</sup> Abatement Period, Create 2<sup>nd</sup> INC in AFMSS (*include shutdown warning*)

Step 5

- Create Bill for Collections for the Assessment Using BLM’s Collections and Billings System (CBS)

Step 6

- Mail 2<sup>nd</sup> INC and Bill for Collection for the Assessment to the Operator

Step 7

- If Uncorrected After 2<sup>nd</sup> Abatement Period, Create Notice to Shut Down Operations in AFMSS

Step 8

- Mail Notice to Shut Down Operations to Operator



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders



For non-immediate situations, how does an inspector give due notice for Shutdown Orders?

- **Warn operator of potential shutdown actions within the following documents:**

**2<sup>nd</sup> INC Form**

**NPCP Letters**

**Demand Letters**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders



### What form is used for Shutdown Orders?

- **Notice to Shut Down Operations, Form 3160-12**
- **The process for generating the form in AFMSS is similar to the Written Order and INC process**
  - **You can escalate an INC to a Shutdown Order**

### For instances with a violation, what should accompany the Shutdown Order?

- **Notice of Incidents of Noncompliance (INC)**
  - **Example: INC for drilling without approval issued with Notice to Shut Down Operations**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Shutdown Orders



### What remarks need to be included in the Shutdown Order?

- Explain why the notice to shut down is being issued.
- The explanation must describe in detail what operation is to be shut down.
- Reference the INC (if warranted).
- Explain what needs to be corrected before operation can resume.
- Include only those remarks pertinent to the operation.
- Do not include remarks used for internal tracking.





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Immediate Assessments [43 CFR 3163.1(b)]



**Upon discovery of the following violations, the authorized officer may subject the operator or person to immediate assessments:**

**Failure to install blowout preventer as required by the drilling plan**

- **\$1,000 per violation, per inspection**

**Drilling without approval or for causing surface disturbance on Federal/Indian surface preliminary to drilling without approval**

- **\$1000 per violation, per inspection**

**Failure to obtain approval of a plan for well abandonment prior to commencement of such operations**

- **\$500 per violation, per inspection**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Immediate Assessments



Who issues:

**Petroleum  
Engineer  
Technicians (PET)**

**Failure to install blowout  
preventer as required by  
the drilling plan**

**Failure to obtain  
approval of a plan for  
well abandonment prior  
to commencement of  
such operations**

**PET or  
Environmental  
Surface Inspectors**

**Drilling without  
approval or for causing  
surface disturbance on  
Federal/Indian surface  
preliminary to drilling  
without approval**



## Module 2 Lesson 2 “Additional Enforcement Actions”

### Immediate Assessments



**What surface ownerships prevent the issuance of immediate assessments when surface disturbance is created without approval?**

**Fee (Private)  
Surface**

**State  
Surface**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Issuing Immediate Assessments





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Immediate Assessments



### Common Steps to Issuing Immediate Assessments

- Step 1** • Identify 43 CFR 3163.1(b)(2) Violation During Inspection
- Step 2** • Create INC in AFMSS
- Step 3** • Create Bill for Collection for the Immediate Assessment in BLM’s Collections and Billings System (CBS)
- Step 4** • Mail INC and Bill for Collection to Operator\*

*\*May also include Form 3160-12 “Notice to Shut Down Operations” if warranted.*



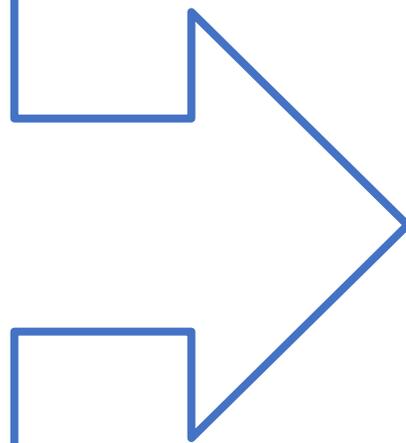
# Module 2 Lesson 2 “Additional Enforcement Actions”

## Immediate Assessments



What information should be included in the INC form?

- **Reason for immediate assessment (violation)**
  - Onshore Order No. 1, Section IV
- **Assessment Reference:**
  - 43 CFR 3163.1(b)(2)
- **Reference to Bill for Collection**
  - Include consequences for not paying bill (*lease shut down or cancellation*)





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools

- Monetary Assessments
- Civil Penalties
- Shutdown Orders
- Immediate Assessments
-  BLM Completes Work at Expense/Risk of Operator
- Forfeiture Under the Bond
- Lease Cancellation



## Module 2 Lesson 2 “Additional Enforcement Actions”

### BLM Completes Work [43 CFR 3163.1(a)(4)]



**When necessary, the authorized officer may enter upon a lease and perform, or have performed, at the sole risk and expense of the operator, operations that the operator fails to perform when directed in writing by the authorized officer.**

**BLM may charge:**

**Actual cost of performance**

**Additional 25% of actual cost  
for administrative expenses**



## Module 2 Lesson 2 “Additional Enforcement Actions”

### BLM Completes Work [43 CFR 3163.1(a)(4)]



**The operator shall be provided with a reasonable period of time either to:**

- **Take corrective action;**
- or**
- **Provide written justification to the BLM why the lease should not be entered.**

**Justificatio**

n



# Module 2 Lesson 2 “Additional Enforcement Actions”

## BLM Completes Work



**What circumstances warrant this enforcement action tool?**

- **Emergency situations**

**Prior to entering the lease to perform operations at the sole risk and expense of the operator, who must approve the work?**

- **Authorized Officer**

**Who should the inspector coordinate with prior to initiating this enforcement action tool?**

- **Field Office Management**
- **State Office Program Lead**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools

- Monetary Assessments
- Civil Penalties
- Shutdown Orders
- Immediate Assessments
- BLM Completes Work at Expense/Risk of Operator
-  Forfeiture Under the Bond
- Lease Cancellation



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Forfeiture Under the Bond [43 CFR 3163.1(a)(5)]



**Continued noncompliance may subject the lease to forfeiture under the bond.**

**The operator shall be provided with a reasonable period of time either to:**

- **Take corrective action; or**
- **Show why the lease should not be recommended for forfeiture under the bond.**





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Attaching the Bond





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Forfeiture Under the Bond



**When does the inspector proceed with attaching/claiming the bond?**

- **Continued noncompliance after other tools are exhausted**

**How does the inspector proceed with attaching/claiming the bond?**

- **For Federal leases, the BLM field office (FO) sends letter to the state office fluid minerals adjudicator to initiate the process**
- **Coordinate closely with FO Management, State Office Program Lead, and Field Office/State Office Adjudication Staff**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools

- Monetary Assessments
- Civil Penalties
- Shutdown Orders
- Immediate Assessments
- BLM Completes Work at Expense/Risk of Operator
- Forfeiture Under the Bond
- ⊗ Lease Cancellation



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Lease Cancellation [43 CFR 3163.1(a)(5)]



**Continued noncompliance may subject the lease to cancellation. The operator shall be provided with a reasonable amount of time to:**

- **Take corrective action; or**
- **Show why the lease should not be recommended for cancellation.**

**If the violation continues beyond the 60 days in the civil penalty process, lease cancellation proceedings can be initiated under either Title 43 (Federal) or Title 25 (Indian) of the Code of Federal Regulations.**

**Leases within their primary term would likely require a discussion with your SO I&E Coordinator and/or Adjudication team.**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Canceling the Lease





# Module 2 Lesson 2 “Additional Enforcement Actions”

## Lease Cancellation



### When does the inspector proceed with Lease Cancellation?

- **Continued noncompliance after other tools are exhausted**

### How does the inspector proceed with Lease Cancellation?

- **Close coordination with:**
  - **Management**
  - **Leasing Staff**
  - **State Office Program Lead**
  - **Field Office/State Office Adjudication Staff**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## Additional Enforcement Action Tools

**We covered the following enforcement action tools:**

-  **Monetary Assessments**
-  **Immediate Assessments**
-  **Shutdown Orders**
-  **Civil Penalties**
-  **BLM Completes Work at Expense/Risk of Operator**
-  **Forfeiture of the Bond**
-  **Cancellation of Lease**



# Module 2 Lesson 2 “Additional Enforcement Actions”

**CONCLUSION**



## Module 2 Lesson 2 “Additional Enforcement Actions”

### Additional Enforcement Action Tools

**All field offices should be aware that they may have more than one choice of enforcement tools that can be used, or in some cases multiple tools could be used.**



**Each field office should take the time to identify the best tool(s) to gain compliance most effectively and should not assume only one tool can be used for enforcement.**



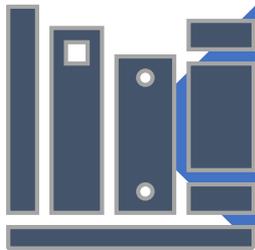
# Module 2 Lesson 2 “Additional Enforcement Actions”

## Process for Additional Enforcement Actions

Where can an inspector find guidance for additional enforcement action tools?



43 CFR 3163 – Noncompliance, Assessments, and Penalties



H-3160-5 “Inspection and Enforcement Documentation and Strategy Development Handbook”



# LESSON OBJECTIVE

Each student should be able to...

**Given a scenario involving non-compliance of an initial enforcement action or specific regulation, identify what additional action(s) should be taken by the Environmental/Surface Inspector to gain compliance based on applicable enforcement regulation and BLM guidance.**



# Module 2 Lesson 2 “Additional Enforcement Actions”

## LESSON ROUTE

**We covered general information and process for:**

**Monetary Assessments**

**Civil Penalties**

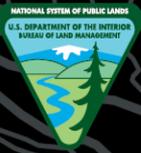
**Shutdown Orders**

**Immediate Assessments**

**BLM Completes Work at Expense/Risk of Operator**

**Forfeiture Under the Bond**

**Lease Cancelation**



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# Module 2 – Lesson 2

## Additional Enforcement Actions

**END**

